

HOUSE BILL 169

By McCormick

AN ACT to amend Tennessee Code Annotated, Section 8-8-102; Section 37-5-117; Section 38-8-104; Section 38-8-106 and Section 41-1-116 for the purpose of compliance with the Americans with Disabilities Act, 42 United States Code 12101, *et seq.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-8-102(a)(8), is amended by deleting the language of the subsection in its entirety and substituting the following language:

(8) Have been certified by a Tennessee licensed health care provider qualified in the psychiatric or psychological field as being free from any impairment, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association at the time of the examination, that would, in the professional judgment of the examiner, affect the applicant's ability to perform an essential function of the job, with or without a reasonable accommodation; and

SECTION 2. Tennessee Code Annotated, Section 37-5-117(6), is amended by deleting the language of the subsection in its entirety and substituting the following language:

(6) Have been certified by a Tennessee licensed health care provider qualified in the psychiatric or psychological field as being free from any impairment, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association at the time of the examination, that would, in the professional judgment of the examiner, affect the applicant's ability to perform an essential function of the job, with or without a reasonable accommodation.

SECTION 3. Tennessee Code Annotated, Section 38-8-104(e), is amended by deleting the language of the subsection in its entirety and substituting the following language:

(e) The commission shall establish criteria for determining whether to grant an exception to or to waive the qualifications of § 38-8-106, for a person hired as a police officer after July 1, 1987, except that no waiver or exception shall be granted for dishonorable discharge from the military, mental impairment which affects the person's ability to perform an essential function of the job with or without a reasonable accommodation, or a narcotics violation that could result in a felony charge. The commission's decisions with regard to exceptions or waivers granted under this subsection shall be appealable to the chancery court. The commission shall adopt rules and regulations in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to implement the provisions of this subsection.

SECTION 4. Tennessee Code Annotated, 38-8-106(9), is amended by deleting the language of the subsection in its entirety and substituting the following language:

(9) Have been certified by a Tennessee licensed health care provider qualified in the psychiatric or psychological field as being free from any impairment, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association at the time of the examination, that would, in the professional judgment of the examiner, affect the applicant's ability to perform an essential function of the job, with or without a reasonable accommodation.

SECTION 5. Tennessee Code Annotated, Section 41-1-116(7), is amended by deleting the language of the subsection in its entirety and substituting the following language:

(7) Have been certified by a Tennessee licensed health care provider qualified in the psychiatric or psychological field as being free from any impairment, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association at the time of the examination, that would, in the professional judgment of the examiner, affect the applicant's ability to perform any essential function of the job, with or without a reasonable accommodation; and

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.